

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**MARCIA ESCOBAR,**

Plaintiff,

v.

**BENIHANA NATIONAL  
CORPORATION, *et al.*,**

Defendants.

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No. 20-cv-2447

**ORDER  
TO SHOW CAUSE**

**THIS MATTER** having come before the Court by way of Defendant Benihana National Corporation's unopposed Motion, (ECF No. 40), seeking an Order holding non-party Maria Berrios, a mental health counselor, in contempt for non-compliance with a Rule 45 subpoena and the Court's May 31, 2022 Order, (ECF No. 34), granting Defendant's Motion to compel Ms. Berrios to produce any and all notes she prepared in the course of her treatment of Plaintiff, as well as any other treatment record related to Plaintiff's treatment and/or care consistent with the rider attached to the subpoena; and

**WHEREAS** the Court notes that no opposition to the Motion has been filed; and

**WHEREAS** the Honorable Elizabeth A. Pascal, United States Magistrate Judge, having held a hearing on November 21, 2022, on the record to address Defendant's Motion; and

**WHEREAS** the Court notes Ms. Berrios' failure to appear and bring the Medical Records requested in Defendant's Rule 45 subpoena; and

**WHEREAS** the Court having considered the Report and Recommendation submitted by United States Magistrate Judge Pascal, pursuant to 28 U.S.C. § 636(b)(1)(B) and (C); and

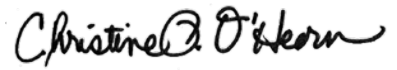
**WHEREAS** the parties having been notified that they had fourteen (14) days from receipt of the Report and Recommendation to file and serve objections pursuant to Local Civil Rule 72.1(c)(2), and no objections having been received; and

**WHEREAS** the Court finding the Report and Recommendation neither clearly erroneous, nor contrary to law; and for good cause shown; therefore

**IT IS** on this 24<sup>th</sup> day of January, 2023,

**ORDERED** that the Report and Recommendation is **ADOPTED**; and it is further

**ORDERED** that non-party Maria Berrios appear in person before the Honorable Christine P. O'Hearn, United States District Judge, on February 3, 2023, at 10:00 A.M. in Courtroom 5A to show cause why Ms. Berrios should not be held in civil contempt for repeated violations of this Court's Orders.

  
**CHRISTINE P. O'HEARN**  
**United States District Judge**